No. 16235

IN THE

United States

Court of Appeals

FOR THE NINTH CIRCUIT

SPOKANE COUNTY, *Appellant,*

vs.

AIR BASE HOUSING, INC., AND UNITED STATES OF AMERICA, *Appellees.*

On Appeal from the Judgment of the United States District Court for the Eastern District of Washington

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BRIEF FOR THE UNITED STATES

CHARLES K. RICE,
Assistant Attorney General.

LEE A. JACKSON,
MYRON C. BAUM,
H. EUGENE HEINE,
JOHN J. CROWN,
Attorneys,
Department of Justice,
Washington 25, D. C.

DALE M. GREEN,
United States Attorney.

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OPINION BELOW

The findings of fact (R. 22-27) conclusions of law (R. 28-32) and oral opinion of the trial court (R. 36-51) are not officially reported.

JURISDICTION

This appeal is taken from a judgment on one of a series of multiple claims asserted in a condemnation

action. The action was originally instituted by the United States of America by the filing, on November 1, 1957, of a complaint and declaration of taking pursuant to which the United States sought to acquire by condemnation certain leasehold interests and easements held by appellee Air Base Housing, Inc. (R. 3-8, 52.) Jurisdiction was conferred on the District Court by 28 U.S.C., Section 1358. On March 14, 1958, appellant, Spokane County, filed in the District Court an amended personal property tax and assessment lien statement claiming a lien on the property taken. (R. 8-9.) Thereafter on June 4, 1958, appellee Air Base Housing, filed a petition for an order rejecting the appellant's tax claim and for a partial disbursement to it of the amount deposited with the court. (R. 10-15.) After a hearing held on June 26, 1958, the District Court, on July 2, 1958, entered findings of fact and conclusions of law which rejected appellant's tax claim and which contained a finding by the District Court that there was no just reason for delay in entering final judgment on appellant's claim and directed that such final judgment be entered. (R. 22-32.) Final judgment was accordingly entered on July 2, 1958 (R. 32-33), and notice of appeal was filed August 6, 1958 (R. 34). Jurisdiction of this Court rests on 28 U.S.C., Section 1291 and Rule 54(b) of the Federal Rules of Civil Procedure.

QUESTIONS PRESENTED

1. Does Congress have power to immunize private persons who deal with the Federal Government from state and local taxation?[1]

2. Did appellant's 1957 taxes become an encumbrance upon the property of appellee Air Base Housing, Inc., prior to June 15, 1956, as required by Section 511 of the Housing Act of 1956?[2]

3. Under Section 511 of the Housing Act of 1956, which permits state and local taxation of lessees from the Federal Government in amounts not exceeding

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[1]This issue though asserted by appellant in its specifications of error (Br. 4) has been expressly abandoned by appellant (Br. 5) and consequently will not be further discussed herein. As appellant notes, such abandonment is compelled by the decisions of the Supreme Court in *United States v. City of Detroit,* 255 U.S. 466, and *City of Detroit v. Murray Corp.,* 355 U.S. 489.

[2]This issue is one of state law upon which the court below has correctly ruled. The issue by its very nature is narrow, i.e., it relates solely to 1957, and concerns the construction of a state statute. The United States will neither brief the issue nor argue it, deferring to the County and private litigant in this regard. The 1958 taxes, levied in 1957, did not and could not have become an encumbrance upon appellee Air Base Housing, Inc.,'s property interest until after June 15, 1956, the effective date of Section 511.

the taxes on property of similar value and which provides for the deduction from such taxes of any amounts paid by the Federal Government to local taxing or other agencies with respect to such property, are payments by the Federal Government for the operation of local schools properly deductible from the taxes otherwise payable, as the District Court held, or are such payments outside the scope of Section 511, as appellant contends?

STATUTES INVOLVED

These appear in the Appendix, *infra*.

STATEMENT

The findings of the District Court (R. 22-27) may be briefly summarized as follows:

On November 1, 1957, appellee the United States of America commenced an action for the condemnation of land, and, by declaration of taking filed on that date, acquired title to certain leaseholds and easements held by appellee Air Base Housing, Inc., subject to stated mortgages thereon. The sum of $3 was deposited with the court with the declaration of taking and on December 17, 1957, an amendment of the declaration of taking was filed and there was deposited with the court an additional amount of $199,997. Subsequently, pursuant to court order a partial disbursement was made to appellee Air Base

Housing, Inc., in the amount of $24,500; the sum of $175,500 was thus left on deposit with the court. The principal properties taken by the United States consisted of so-called "Wherry Act Leaseholds" held by appellee Air Base Housing, Inc., and which were subject to mortgages insured under the provisions of Title VIII of the National Housing Act in effect prior to August 11, 1955. Such leaseholds involved housing projects located at Fairchild Air Force Base, State of Washington, and were designated by the Air Force as "Wherry Housing Project, Fairchild Air Force Base, Washington, FHA Projects 171-8002, 3 and 4." (R. 23-24.)

Appellant, Spokane County, and appellee Air Base Housing, Inc., appeared in this action and made claims to payment from the amount deposited and from any award which might be entered in the action. Appellant, Spokane County, filed a tax claim on December 17, 1957, in the amount of $135,120.79. On March 14, 1958, it filed an "Amended Personal Property Tax and Assessment Lien Statement" for the same amount. In 1955 and prior years appellant, Spokane County, had assessed "Wherry Act Leaseholds" upon a different basis than that utilized in 1956 and 1957. After the decision of the United States Supreme Court in *Offutt Housing Co. v. Sarpy County,* 351 U.S. 253, on May 28, 1956, appellant Spokane County amended its assessment of such

leaseholds in order that the assessments could be based on the full value of the buildings and improvements covered by the leases. This basis of assessment had been upheld in the *Offutt* case which involved similar leaseholds in the State of Nebraska. In October, 1956, as required by Section 84.52.030 of the Revised Code of Washington, the Spokane County Commissioners made a tax levy upon the leaseholds for personal property taxes payable in 1957. On the same basis the Commissioners made a tax levy in October, 1957, on such leaseholds for personal property taxes payable in 1958. (R. 24-25.) The legislation which became the Housing Act of 1956 was pending in Congress when the *Offutt* case was decided by the Supreme Court, and Congress dealt with the problems involved in the taxation of "Wherry Act Leaseholds." The *Offutt* case was mentioned in H. Rep. No. 2363, 84th Cong., 2d Sess., pp. 48-49 (3 U.S.C. Cong. & Adm. News (1956) 4509, 4555-4556, dated June 15, 1956, in that part of the report which explained the provisions of Section 603 of H. R. 11742, which, with modifications, became Section 511 of the Housing Act of 1956, approved August 7, 1956. (R. 25.)

The October, 1956, personal property tax levy made by appellant, Spokane County, on the leaseholds of appellee Air Base Housing, Inc., for taxes payable in 1957 totalled $83,796.19. Of this amount, $39,751.85 was paid under protest by Air Base Housing, Inc.,

and the balance, together with interest of $182.23, as of November 1, 1957, is claimed by appellant, Spokane County, to be a lien which has been transferred to and is payable from the deposit and any award which may be made in this condemnation action. The October, 1957, personal property tax levy for taxes payable in 1958 totalled $90,894.22. This amount is likewise claimed by appellant, Spokane County, to be a lien which has been transferred to and is payable from the deposit and any award which may be made in this condemnation action. (R. 25-26.)

On April 29, 1958, George S. Robinson, Deputy Special Assistant for Installations, Department of the Air Force, made a determination labeled "Determination Under Section 408 of the Housing Amendments, as amended: Fairchild Air Force Base, Washington (FHA Projects 171-8002, 3 and 4)". A certified copy of this determination was received in evidence at the hearing before the District Court, as were also copies of an order of January 8, 1957, and a directive of November 16, 1956, containing delegations of authority to make such determinations. Counsel stipulated before the District Court that the determination was made by a duly designated designee of the Secretary of Defense. The statement of payments and expenditures made by the Federal Government with respect to the project here involved, attached to such determination, shows a total of $109,-

025.68, for 1956 as compared to the tax levy of appellant, Spokane County, in October, 1956, in the amount of $83,796.19. The statement of payments for the year 1957 shows a total of $113,018.45 as compared to appellant, Spokane County's tax levy in October, 1957, in the amount of $90,894.22. (R. 26-27.) Such statement of payments reads in pertinent part as follows (R. 17):

> Statement of Payments Made by Federal Government and Expenditures by Federal Government or Lessee for the Wherry Housing Project, Fairchild Air Force Base, Washington, FHA Projects, Nos. 171-8002, 3 and 4.
>
> | I. Payments Made by the U.S. Office of Education | 1956 | 1957 |
> |---|---|---|
> | (a) Payments for operation of schools pertaining to dependants living in Wherry Projects pursuant to P. L. 874, 81st Congress | $48,460.80 | $52,453.57 |

The District Court found that there had been no showing that the determination made by the designee of the Secretary of Defense was arbitrary or capricious. It also found that since there was an amount of $175,500 on deposit with the court in the action, and that since the probabilities were that the trial of the issues of just compensation would be protracted, there was no just reason for delay in entering a final judgment on appellant's tax claim. (R. 27.) The Dis-

trict Court, in addition to its oral opinion (R. 36-51), entered conclusions of law. It concluded that the Congress has constitutional power to create entire or partial tax immunities from state or local taxation for private parties who have made contracts with the United States in furtherance of authorized federal programs, and that the leases here in question constituted contracts made pursuant to authorized federal programs for housing of military personnel. The District Court also concluded that Congress had constitutional power to enact Section 511 of the Housing Act of 1956 and to permit state and local taxation of "Wherry Act Leaseholds" subject to the conditions contained in such section; that the provisions of Section 511 are applicable to any "Wherry Act Leasehold" insured under Title VIII of the National Housing Act in effect prior to August 11, 1955, whether or not the United States has exclusive jurisdiction over the land on which the housing project was located (R. 29); that, Congress did not intend that state and local authorities should have a right to judicial review of determinations made by the Secretary of Defense or his designee under Section 511 of the Housing Act of 1956 in the absence of a showing of arbitrary and capricious action; and that Congress intended that acceptance of such determinations be a condition of the permission to tax such leaseholds, as provided in Section 511. (R. 30.)

The District Court concluded that under the Constitution of the State of Washington, as interpreted by the Supreme Court of that state, the 1956 personal property tax levy made by appellant, Spokane County, on the "Wherry Act Leaseholds" here involved could not have become a valid or effective lien until the tax levy was made by the County Commissioners in October, 1956; and that consequently, the 1956 levy was not an encumbrance of such leaseholds prior to June 15, 1956, the effective date of the first proviso of Section 511. The determinations made by the designee of the Secretary of Defense for the years 1956 and 1957 under Section 511 for the project here in question were substantially in excess of the personal property tax levies made by appellant, Spokane County, for those years on the same leaseholds. The District Court held, therefore, that the personal property levies were invalid in their entirety and that appellant did not have a lien on the deposit made with the court or on any award to be entered. Appellant's tax claim was therefore rejected. (R. 30-31.)

SUMMARY OF ARGUMENT

The Congress may immunize those with whom the United States deals from state and local taxation either conditionally, unconditionally, in part, or in toto.

The Supreme Court, in *Offutt Housing Co. v. Sarpy County,* 351 U.S. 253, held that the Congress had subjected the interest of a lessee in a so-called Wherry Act Military Housing Project to state and local taxation. Shortly after the *Offutt* decision the Congress conditioned its consent to such taxation upon the recognition by the state and local taxing authorities of a deduction or credit in an amount to be determined by the Secretary of Defense or his designee for payments made by the Federal Government with respect to the property. The purpose of the conditional consent and the deduction device was to eliminate duplication of payments to state and local taxing authorities in respect to federally owned property. Were it not for the deduction from the tax bill the operator of a project would provide the state and local taxing authorities with revenue for activities already paid for in full by the Federal Government.

The emergency school assistance program carried on by the Department of Health, Education and Welfare in areas where such activities as so-called Wherry Act Military Housing Projects are located falls clearly within the federal payments to state and local taxing and other public agencies which the Congress directed be included in the determinations provided for in Section 511.

ARGUMENT

Federal Assistance Payments to Local Agencies for the Operation of Educational Facilities are Properly Includible in Determinations Made Pursuant to Section 511 of the Housing Act of 1956.

In its specifications of error (Br. 4-5), appellant asserts that the District Court was in error in holding that the determinations made by the Secretary of Defense were not judicially reviewable. In the portion of its brief which is devoted to this point, however, appellant expressly disclaims any attempt to seek judicial review of the determination made by the Secretary of Defense. Instead, it challenges, solely on legal grounds, the propriety of merely one item in the Secretary's determination, namely the inclusion of payments for school operation pursuant to the Act of September 30, 1950 (referred to in the determination as Public Law 874, 81st Cong.). (Br. 21-23.) A brief review of the relevant statutory provisions will quickly demonstrate the error in appellant's contention.

In *Offutt Housing Co. v. Sarpy County,* 351 U.S. 253, the Supreme Court held that Congress had subjected the interest of a lessee in "Wherry Act Leaseholds" to state and local taxation. This decision was rendered in 1956, at a time when Congress had under consideration legislation which subsequently became

the Housing Act of 1956. (R. 25.) In order to meet the situation resulting from the *Offutt* decision, Congress enacted Section 511 of the Housing Act of 1956 as an amendment to Section 408 of the Housing Amendments of 1955, c. 783, 69 Stat. 635. (Appendix, *infra.*)[3] In Section 511 of the Housing Act of 1956, Congress established a simple and logical procedure for the handling of state and local tax problems in connection with military housing projects constructed under the Wherry Act. Congress did not seek to fully immunize its lessees from local taxes, as it had authority to do,[4] but instead recognized the full effect of the *Offutt* decision and provided a fair and equitable method for the taxation of the operators of such projects.

It provided that the operators of these projects should not be exempt from state or local taxes, but that there should be deducted from the taxes otherwise payable by such operators the amounts of any payments made by the Federal Government with respect to the property and the amounts of any expenditures made by the Federal Government or operator

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[3]The amendment made by the Housing Act of 1956 was to insert all the material in Section 408 appearing after the first sentence.

[4]*Carson v. Roane-Anderson Co.,* 342 U.S. 232; *General Electric Co. v. State of Washington,* 347 U.S. 909; *United States v. City of Detroit,* 355 U.S. 466; *City of Detroit v. Murray Corp.,* 355 U.S. 489.

for streets, sewers, lighting, etc., and for "any other services or facilities which are customarily provided by the State, county, city, or other local taxing authority." The purpose of this provision is obvious: Since state and local taxes are the source of the funds available to a state or local agency for the provision of streets, sewers, lighting, police and fire services and other services normally available for residential property, Congress intended that the state or local authorities should not be deprived of such revenue if it must provide these services to a housing project on federally owned property as here. If, on the other hand the Federal Government or operator has provided some of these services directly, or has made payments to the state or local agency for the provision of such services, the state or local agency may not be permitted to collect the full taxes, for if it were permitted to do so, it would, to the extent of the federal payments, be receiving double revenue for the same services. In order to remove this possibility, Congress therefore provided for an equitable adjustment by deducting from the taxes otherwise payable the amounts expended for services or facilities customarily provided by the state or local taxing authorities.

The legislative history of Section 511 clearly demonstrates that the foregoing exposition fully squares with the legislative intent. That history discloses

that Congress intended that states and communities should receive the same revenue from these housing projects as they would from similar property, but that in calculating the revenue to be received there should be included payments or expenditures made by the Federal Government and operator. Thus, the report of the House Committee, referring to Section 603, which subsequently became Section 511 of the Act as passed (R. 25), stated as follows (H. Rep. No. 2363, 84th Cong., 2d Sess., pp. 4849 (3 U.S.C. Cong. & Adm. News (1956) 4509, 4555-4556)):

> Section 603 of the bill would expressly provide that nothing contained in title VIII or other law shall be construed to exempt from State or local taxes or assessments any right, title, or other interest of a lessee from the Federal Government with respect to any property covered by a mortgage insured under that title. However, the section would provide that any such taxes or assessments must be reduced (from the amount otherwise levied or charged) by such amount as the Federal Housing Commissioner determines to be equal to (1) any payments in lieu of taxes made by the Federal Government to the local taxing bodies with respect to the property plus (2) any expenditures made by the Federal Government for streets, utilities, and other services for or with respect to the property. ***
>
> It would thus be made clear that States and communities, under adequate State tax statutes, would be able to obtain from Wherry Act projects taxes and assessments which, with payments and expenditures by the Federal Government for

> services in connection with the projects, would equal the taxes and assessments collected by the local taxing officials from other similar property.

Appellant seemingly contends, however, that payments for the operation of schools are not includible in the deductions specifically provided by Congress. Not only do such payments come within the express statutory language concerning "payments made by the Federal Government to the local taxing or other public agencies involved with respect to such property", and "expenditures made by the Federal Government" for "services or facilities which are customarily provided by the State, county, city, or other local taxing authority", but the legislative history expressly indicates that school payments were among the items concerning which the Congress legislated. In two separate sentences in its report the House Committee referred to the fact that payments or expenditures had been made by the Federal Government for the provision of schools or school facilities. The report reads (H. Rep. No. 2363, *supra,* p. 49 (3 U.S.C. Cong. & Adm. News, p. 4556)):

> However, as a large portion of the projects have not been subject to State and local taxes, payments in lieu of taxes have frequently been made to local taxing officials in exchange for usual services, such as schools, furnished to the projects. Also, many expenditures have been made by the Federal Government for streets, utilities, schools, and other services normally furnished by taxing bodies.

Clearly, Congress intended that a computation should be made of payments or expenditures by the Federal Government for services or facilities normally financed by state or local taxes. The state or local taxes otherwise collectible from the federal operator should be reduced by the amount of such payments or expenditures, for otherwise the state or local taxing agency would in effect be paid twice for the same services or facilities. This was made clear beyond all question by the concluding language of the House Committee on this section of the bill. The Committee stated (H. Rep. No. 2363, *supra,* p. 49, (3 U.S.C. Cong. & Adm. News, p. 4556)):

> As tax payments for a project normally have an ultimate effect on the rentals paid by military and civilian personnel at the military installations, it is important that no payments be made to communities which would constitute a windfall over and above normal taxes. Consequently, it is very important to assure that the project does not duplicate payments for services furnished to it. This duplication would be avoided under the provisions in the bill for deductions from tax payments, as explained above.

Notwithstanding the clearly expressed Congressional intention that the states or local communities should not receive double compensation through federal payments and through taxation for services or facilities paid for or financed by the Federal Government or operator, and notwithstanding the fact that

payments for school operation were plainly intended to be included in this statutory scheme which Congress established, appellant nevertheless contends that the payments for school operation which it received should not be taken into account in the determination which the Secretary of Defense has made. Appellant must certainly recognize that schools are a service or facility normally provided by state or local agencies and that the funds for the operations of schools are normally provided by state or local taxation. If appellant were permitted to collect the full tax otherwise due, without deduction for federal school payments, it would become abundantly clear that to the extent of such payments it would be collecting twice for the same services. This would violate the express Congressional command that the housing project in question shall "not duplicate payments for services furnished to it." Such a duplication of payments clearly constitutes a "windfall" as Congress stated. Seizing upon the word "windfall" however, appellant argues (Br. 23) that the federal payments for school operation were based on need and are not a substitute for local taxes. This is a mere play on words and is wholly incorrect.

Section 1 of the Act of September 30, 1950 (Appendix, *infra*), sometimes referred to in the record as Public Law 874, 81st Cong., contains the Congressional declaration of policy relating to school assist-

ance payments. That section expressly recognizes that the need for such payments arises from the reduction in local revenues resulting from the acquisition of property by the United States. Section 2 of the Act (Appendix, *infra*) sets forth the determinations which are a necessary prerequisite to the furnishing of school assistance. Under this section assistance may not be furnished unless it is found that the acquisition of property by the Federal Government has resulted in a loss of revenue to the local educational agencies and that such agencies are not being compensated for the loss of revenue by other federal payments. This statute thus makes it clear, as does Section 511 of the Housing Act of 1956, that Congress intended to reimburse the local authorities who were deprived of their normal sources of revenue, but that such reimbursement should be limited to the amount of revenue lost and no more. In the school assistance program this is made clear by the sections referred to; in the Housing Act it is made clear by the statutory provisions and legislative history previously noted.

Appellant appears to contend that the Congress in enacting Section 511 did not intend that legislation to in any way mesh with the federal school assistance program carried on by the Department of Health, Education and Welfare pursuant to the Act of September 30, 1950. However, the very purpose of Section 511, as set forth in its legislative history quoted

supra, was to "assure that the project does not duplicate payments." The reason the Congress enacted Section 511 is made patently clear from its legislative history. In view of the Supreme Court's interpretation of the *Offutt* decision, *supra,* of the Wherry Act and the Military Leasing Act, it became apparent that payments to local taxing and other public agencies would be duplicated if both the taxes authorized by *Offutt, supra,* and the special emergency aid programs were allowed. Therefore, the Congress enacted Section 511 in order to guard against excess revenues being paid to local taxing authorities by the Federal Government in respect to federal property. Section 511 provides *inter alia* that the determination be based upon services and "payments made by the Federal Government to the local taxing or other public agencies involved with respect to such property." The short of it is that payments made under the school assistance program are among the very payments the Congress intended should not be duplicated because of the permissive taxation found in *Offutt, supra,* and authorized by Section 511.

Had the Congress intended that certain federal payments such as the emergency school assistance payments here under consideration be ignored for the purposes of Section 511 determinations, it would have so stated. However, the Congres not only did not point the way for such a construction but, indeed,

it specifically rejected it by providing in Section 511 for the determination to be equal to "any payments *** to the local taxing or other public agencies ***" by the Federal Government.

Appellant's right to tax the property is specifically conditioned upon the recognition of the Section 511 determination and that determination must, by the Congressional mandate, include all federal payments to not only the local taxing but to all other public agencies as well. It is inescapable that the law requires the inclusion of the emergency school payments as part of the determination.

CONCLUSION

For the reasons stated, the judgment of the District Court should be affirmed.

Respectfully submitted,

CHARLES K. RICE,
Assistant Attorney General.

LEE A. JACKSON,
MYRON C. BAUM,
H. EUGENE HEINE,
JOHN J. CROWN,
Attorneys,
Department of Justice,
Washington 25, D. C.

DALE M. GREEN,
United States Attorney.
April____, 1959.

APPENDIX

Act of September 30, 1950, C. 1124, 64 Stat. 1100:

DECLARATION OF POLICY

SECTION 1. In recognition of the responsibility of the United States for the impact which certain Federal activities have on the local educational agencies in the areas in which such activities are carried on, the Congress hereby declares it to be the policy of the United States to provide financial assistance (as set forth in the following sections of this Act) for those local educational agencies upon which the United States has placed financial burdens by reason of the fact that,—

(1) the revenues available to such agencies from local sources have been reduced as the result of the acquisition of real property by the United States; or

(2) such agencies provide education for children residing on Federal property; or

(3) such agencies provide education for children whose parents are employed on Federal property; or

(4) there has been a sudden and substantial increase in school attendance as the result of Federal activities.

(20 U.S.C. 1952 ed., Sec. 236.)

FEDERAL ACQUISITION OF REAL PROPERTY

SEC. 2 [as amended by Sec. 1, Act of August 8, 1953, c. 402, 67 Stat. 530, and Sec. 201, Act of August 3, 1956, c. 915, 70 Stat. 968]. (a) Where the Commissioner, after consultation with any local educational agency and with the appropriate State educational agency, determines for the fiscal year beginning July 1, 1950, or for any of the seven succeeding fiscal years—

(1) that the United States owns Federal property in the school district of such local educational agency, and that such property (A) has been acquired by the United States since 1938, (B) was not acquired by exchange for other Federal property in the school district which the United States owned before 1939, and (C) had an assessed value (determined as of the time or times when so acquired) aggregating 10 per centum or more of the assessed value of all real property in the school district (similarly determined as of the time or times when such Federal property was so acquired); and

(2) That such acquisition has placed a substantial and continuing financial burden on such agency; and

(3) that such agency is not being substantially compensated for the loss in revenue resulting from such acquisition by (A) other Federal payments with respect to the property so acquired, or (B) increases in revenue accruing to the agency from the carrying on of Federal activities with respect to the property so acquired,

then the local educational agency shall be entitled to receive for such fiscal year such amount as, in the judgment of the Commissioner, is equal to the continuing Federal responsibility for the additional financial burden with respect to current expenditures placed on such agency by such acquisition of property, to the extent such agency is not compensated for such burden by other Federal payments with respect to the property so acquired. Such amount shall not exceed the amount which, in the judgment of the Commissioner, such agency would have derived in such year, and

would have had available for current expenditures, from the property acquired by the United States (such amount to be determined without regard to any improvements or other changes made in or on such property since such acquisition), minus the amount which in his judgment the local educational agency derived from other Federal payments with respect to the property so acquired and had available in such year for current expenditures.

(b) For the purpose of this section—

(1) The term "other Federal payments" means payments in lieu of taxes, and any other payments, made with respect to Federal property pursuant to any law of the United States other than this Act, and property taxes paid with respect to Federal property, whether or not such taxes are paid by the United States.

* * * *

(20 U.S.C. 1952 ed. Supp. IV, Sec. 237)

Housing Amendments of 1955, c. 783, 69 Stat. 635:

SEC. 408 [as amended by Sec. 511, Housing Act of 1956, c. 1020, 70 Stat. 1091]. Nothwithstanding the provisions of Section 401 of this Act, the provisions of title VIII of the National Housing Act in effect prior to the enactment of the Housing Amendments of 1955 shall continue in full force and effect with respect to all mortgages insured pursuant to a certification by the Secretary of Defense or his designee made on or before June 30, 1955, and a commitment to insure issued on or before June 30, 1956 or pursuant to a certification by the Atomic Energy Commission or its designee made on or before June 30, 1956, except that the maximum dollar amount for each such mortgage shall be $12,500,000. Nothing contained in the provisions of title VIII of the National Housing Act in effect prior to August 11, 1955, or any related provision of law, shall be construed to exempt from State or local taxes or assessments the interest of a lessee from the Federal Government in or with respect to any property covered by a mortgage insured under such provisions of title VIII; PROVIDED, That no such taxes or assessments (not paid or encumbering such property or interest prior to June 15, 1956) on the interest of such lessee shall exceed the amount of taxes or assessments on other similar property of similar value, less such amount as the Secretary of Defense or his designee determines to be equal to (1) any payments made by the Federal Government to the local taxing or other public agencies involved with respect to such property, plus (2) such amount as may be appropriate for any expenditures made by the Federal Government or the lessee for the provision or maintenance of streets, sidewalks, curbs, gutters, sewers, lighting, snow

removal or any other services or facilities which are customarily provided by the State, county, city, or other local taxing authority with respect to such other similar property; AND PROVIDED FURTHER, That the provisions of this section shall not apply to properties leased pursuant to the provisions of section 805 of the National Housing Act as amended on or after August 11, 1955, which properties shall be exempt from State or local taxes or assessments.

(42 U.S.C. 1952 ed., Supp. IV, Sec. 1594, note.)